

ECF

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:05-cr-01311-PAC All Defendants

Case title: USA v. McFoy

Date Filed: 12/15/2005

Assigned to: Judge Paul A. Crotty

Defendant (1)

Marvin McFoy
also known as
Ken

represented by **Robert M. Baum**
Federal Defenders of New York Inc.
(NYC)
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or
Community Defender Appointment

Pending Counts

21:846=ND.F CONSPIRACY TO
DISTRIBUTE NARCOTICS
(1)

Disposition

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Assigned to: Judge Paul A. Crotty

Defendant (2)

Solomon Kwabena Buabeng

also known as

Solo

also known as

Ben Jonah

Pending Counts

Disposition

21:846=ND.F CONSPIRACY TO
DISTRIBUTE NARCOTICS

(1)

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

None

Highest Offense Level (Terminated)

None

Complaints

Disposition

None

Assigned to: Judge Paul A. Crotty

Defendant (3)

Ansong Mensah

also known as

Joe

Pending Counts

Disposition

21:846=ND.F CONSPIRACY TO
DISTRIBUTE NARCOTICS

(1)

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

None

Highest Offense Level (Terminated)

None

Complaints

Disposition

None

Plaintiff

USA

represented by **Christine Y. Wong**
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/15/2005	<u>1</u>	SEALED INDICTMENT as to Sealed Defendant 1 (1) count(s) 1, Sealed Defendant 2 (2) count(s) 1, Sealed Defendant 3 (3) count(s) 1. (jm) (Entered: 11/05/2007)
11/05/2007	<u>2</u>	Order to Unseal Indictment as to Sealed Defendant 1, Sealed Defendant 2, Sealed Defendant 3.. (Signed by Judge James C. Francis on 11/05/07)(jm) (Entered: 11/05/2007)
11/05/2007		INDICTMENT UNSEALED as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah. (jm) (Entered: 11/05/2007)
11/05/2007		Case Designated ECF as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah. (jm) (Entered: 11/05/2007)

11/05/2007	<u>3</u>	Arrest Warrant Issued as to Marvin McFoy. (Signed by Judge James C. Francis on 12/15/05.) (Document originally filed under seal on 12/15/05) (jm) (Entered: 11/05/2007)
11/05/2007	<u>4</u>	Arrest Warrant Issued as to Solomon Kwabena Buabeng. (Signed by Judge James C. Francis on 12/15/05.) (Document originally filed under seal on 12/15/05) (jm) (Entered: 11/05/2007)
11/05/2007	<u>5</u>	Arrest Warrant Issued as to Ansong Mensah. (Signed by Judge James C. Francis on 12/15/05.) (Document originally filed under seal on 12/15/05) (jm) (Entered: 11/05/2007)
11/05/2007		Attorney update in case as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah. Attorney Christine Y. Wong for USA added.. (jm) (Entered: 11/05/2007)
11/05/2007		Case as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah ASSIGNED to Judge Paul A. Crotty. Judge Unassigned no longer assigned to the case.. (jm) (Entered: 11/05/2007)
11/05/2007		Arrest of Marvin McFoy. (pr) (Entered: 11/08/2007)
11/05/2007		Minute Entry for proceedings held before Judge James C. Francis :Initial Appearance as to Marvin McFoy held on 11/5/2007. Deft pres w/atty Robert Baum (Legal Aid); AUSA Christine Wong pres. Detention hearing scheduled at def't's request for 11/7/07 @ 11:30am. (pr) (Entered: 11/08/2007)
11/05/2007		ORAL ORDER as to Marvin McFoy. Detention Hearing set for 11/7/2007 at 11:30 AM. (pr) (Entered: 11/08/2007)
11/05/2007		Attorney update in case as to Marvin McFoy. Attorney Robert M. Baum for Marvin McFoy added.. (pr) (Entered: 11/08/2007)
11/05/2007	<u>6</u>	CJA 23 Financial Affidavit by Marvin McFoy. (Signed by Judge James C. Francis)(Legal Aid Robert Baum)(pr) (Entered: 11/08/2007)
11/07/2007		Set/Reset Hearings as to Marvin McFoy (Set via e-mail by chambers - Marlon Ovalles - CRD): Initial Pretrial Conference set for 11/13/2007 at 02:30 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty. (mov) (Entered: 11/08/2007)
11/07/2007		Minute Entry for proceedings held before Judge James C. Francis :Arraignment as to Marvin McFoy (1) Count 1 held on 11/7/2007 and Bond Hearing as to Marvin McFoy held on 11/7/2007. Dft McFoy present w/atty Robert Baum. AUSA Christine Wong present. AGREED BAIL PACKAGE: \$100,000 PRB, 4 FRPs, travel restricted to SDNY/ENDY, surrender travel documents (and no new applications); strict pretrial, curfew 9 p.m. to 6 a.m. Dft ARRAIGNED and plea entered of not guilty. PTC set for 11/15/07. Time excluded on dft's consent. (ja) (Entered: 11/13/2007)
11/08/2007	<u>7</u>	PRB Bond Entered as to Marvin McFoy in amount of \$ 100,000. Co-signed by four financially responsible person's. Travel restricted to SDNY, EDNY. Surrender travel documents (& No new applications). Strict pretrial supervision. Curfew 9pm - 6am. (jw) (Entered: 11/16/2007)

11/09/2007	<u>8</u>	ADVICE OF PENALTIES AND SANCTIONS as to Marvin McFoy. (jw) (Entered: 11/16/2007)
11/13/2007		Minute Entry for proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Christine Wang present. Court Reporter Michelle. T. Bulkley present. The next conference is scheduled for Thursday, January 3, 2008 at 2:45 p.m in Courtroom 20-C. The Government moved to exclude time pursuant to 18 U.S.C Section 3161 from November 13, 2007 through January 3, 2008 and the defendant consented. In the interest of justice, the Court excludes the period of time from November 13 2007 to January 3, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Pretrial Conference as to Marvin McFoy held on 11/13/2007, As to Marvin McFoy Pretrial Conference set for 1/3/2008 at 02:45 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty. (mov) (Entered: 11/13/2007)
11/20/2007	<u>9</u>	ENDORSED LETTER as to Marvin McFoy addressed to Judge Paul A. Crotty from Christine Y. Wong (response from defense counsel, Robert M. Baum attached as pages 3 and 4 of the pdf) dated 11/17/2007 (response by defense counsel, dated 11/17/07) re: Bail: The Governments inability to monitor Mr. McFoy's 9 PM to 6 AM curfew as a condition of bail. ENDORSEMENT: Bail conditions will be modified so that Mr. McFoy must report two times per week to pretrial services in person. Additionally he must call in three times per week from his cell phone and state where he is. If PTS finds that any telephone report is inaccurate his bail will be revoked. So Ordered. Copy E-mailed By Chambers To: PTSO Mildred Santana (Signed by Judge Paul A. Crotty on 11/20/2007) (mov) (Entered: 11/20/2007)
12/18/2007	<u>10</u>	MEMO ENDORSEMENT as to Marvin McFoy on 'Petition for Action on Conditions of Pretrial Release' addressed to the Court from Mildred Santana, U.S. Pretrial Services Officer, dated 12/12/07 re: Praying that the Court will order that the deft's bail be modified to include electronic monitoring. ORDER OF COURT: Considered and ordered this 18th day of December, 2007 and ordered filed and made a part of the records in the above case. (Signed by Judge Paul A. Crotty on 12/18/07)(bw) (Entered: 12/18/2007)
01/03/2008		Minute Entry for proceedings held before Judge Paul A. Crotty: Pretrial Conference as to Marvin McFoy held on 1/3/2008, as to Marvin McFoy (Pretrial Conference set for 1/24/2008 at 01:45 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) Defendant present with atty AFD Robert M. Baum. AUSA Christine Wong present by telephone. AUSA Jonathan B. New present in court. Court Reporter Carol Gangley present. The next conference will go forward on Thursday, January 24, 2008 at 1:45pm in Courtroom 20-C. At the next conference, defense counsel will report the status of discovery review or inform the Court of any contemplated motion(s) that might be filed. Upon no objection, and in the interest of justice, the Court excludes the period of time from January 3, 2008 through January 24, 2008, under the Speedy Trial Act. All bail conditions remain in effect. See transcript for compete details of this proceeding. (jw) (Entered: 01/08/2008)

01/23/2008		Calendar Entry: **Conference Reminder** : Pretrial Conference scheduled for Thursday, January 24, 2008 at 1:45 PM in Courtroom 20-C (Marlon Ovalles - CRD). (mov) (Entered: 01/23/2008)
01/24/2008		Minute Entry For proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Christine Wang present. Court Reporter Karen Gorloski present. The briefing schedule on defendants' motion to dismiss (constitutional speedy trial motion pursuant to the 6th Amendment) is as follows: Motion by 02/19/08, Opposition by 02/26/08 and Reply by 03/04/2008. The Court will contact the parties in the event oral argument is necessary. The next conference is scheduled for Tuesday, March 25, 2008 at 3:00 PM in Courtroom 20-C. In the interest of justice, pursuant to 18 U.S.C Section 3161, the Court excludes the period of time from January 24, 2008 through March 25, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Pretrial Conference as to Marvin McFoy held on 1/24/2008, As to Marvin McFoy(Pretrial Conference set for 3/25/2008 at 03:00 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) (mov) (Entered: 01/24/2008)
02/19/2008	<u>11</u>	MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> . Document filed by Marvin McFoy. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit)(Baum, Robert) (Entered: 02/19/2008)
02/21/2008	<u>12</u>	ENDORSED LETTER as to Marvin McFoy addressed to Judge Crotty from AUSA Christine Y. Wong dated 2/20/08 re: submitted to request two additional weeks, until 3/11/08, to respond to def't's motion to dismiss the indictment and for additional discovery. ENDORSEMENT: So Ordered. (Signed by Judge Paul A. Crotty on 2/21/08)(bw) (Entered: 02/21/2008)
03/04/2008	<u>13</u>	ENDORSED LETTER as to Marvin McFoy addressed to Judge Paul A. Crotty from Christine Y. Wong dated February 28, 2008 re: Request that Pre-Trial Services disclose the report produced regarding the above-referenced defendant. Defendant opposes this request. ENDORSEMENT: The government's motion is granted and defendant's objection of February 29, 2008 is overruled. It is appropriate to release the Pre Trial Report in the circumstances present here. See U.S -v- Ramos 2008 WL 376381 (2d Cir Feb 11, 2008). Pretrial Services should disclose the report in response to the Gov't demand. So Ordered. (Signed by Judge Paul A. Crotty on March 4, 2008)(mov) (Entered: 03/04/2008)
03/07/2008	<u>14</u>	NOTICE OF ATTORNEY APPEARANCE Randall Wade Jackson appearing for USA. (Jackson, Randall) (Entered: 03/07/2008)
03/11/2008	<u>15</u>	MEMORANDUM in Opposition by USA as to Marvin McFoy re <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> .. (Attachments: # <u>1</u> Affirmation of Special Agent James Lee)(Jackson, Randall) (Entered: 03/11/2008)
03/18/2008	<u>16</u>	REPLY MEMORANDUM OF LAW in Support as to Marvin McFoy re: <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> .. (Attachments: # <u>1</u> Exhibit Exhibit F, # <u>2</u> Exhibit Exhibit G, # <u>3</u> Exhibit Exhibit H, # <u>4</u> Exhibit Exhibit I)(Baum, Robert) (Entered: 03/18/2008)

03/25/2008		Minute Entry for proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Randall W. Jackson present. Court Reporter Linda Fisher present. Oral argument held on defendant's motion to dismiss. The Court denied the motion on the record. The Government shall respond to the defendant's discovery request by 04/01/08 and the defendant's reply by 04/08/2008. The next conference is scheduled for 04/17/2008 at 3:30 PM. In the interest of justice, the Court excludes the period of time from March 25, 2008 to April 17, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Oral Argument as to Marvin McFoy held on 3/25/2008 re: <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> . filed by Marvin McFoy, Motions terminated as to Marvin McFoy: <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> . filed by Marvin McFoy, As to Marvin McFoy (Pretrial Conference set for 4/17/2008 at 03:30 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) (mov) (Entered: 03/25/2008)
04/01/2008	<u>17</u>	MEMORANDUM in Opposition by USA as to Marvin McFoy re <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> .. <i>Discovery Opposition Memorandum</i> (Attachments: # <u>1</u> Affidavit of Special Agent James Lee) (Jackson, Randall) (Entered: 04/01/2008)
04/17/2008		Minute Entry for proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Randall W. Jackson present. Court Reporter Toni Stanley present. The defendant withdrew his pending discovery request on the record. The final pretrial conference is scheduled for Monday July 14, 2008 at 2:30 PM in courtroom 20-C. The jury trial in this matter is scheduled for Monday, July 21, 2008 at 9:30 AM in courtroom 20-C. Any motions in limine should be made in advance of the final pretrial conference date. The Government moved to exclude time pursuant to 18 U.S.C Section 3161 from April 17, 2008 through July 21, 2008 and the defendant consented. In the interest of justice, the Court excludes the period of time from April 17, 2008 to July 21, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Pretrial Conference as to Marvin McFoy held on 4/17/2008, As to Marvin McFoy (Pretrial Conference set for 7/14/2008 at 02:30 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty., Jury Trial set for 7/21/2008 at 09:30 AM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) (mov) (Entered: 04/22/2008)
07/11/2008	<u>18</u>	MEMORANDUM OF LAW by USA as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah <i>in Opposition to Marvin McFoy's Motion to Preclude and Requesting a Hearing</i> . (Attachments: # <u>1</u> Affidavit of James Lee) (Jackson, Randall) (Entered: 07/11/2008)
07/14/2008	<u>19</u>	Proposed Jury Instructions by Marvin McFoy. (Shroff, Sabrina) (Entered: 07/14/2008)
07/14/2008	<u>20</u>	Proposed Voir Dire Questions by Marvin McFoy. (Shroff, Sabrina) (Entered: 07/14/2008)

07/14/2008	<u>21</u>	Request To Charge by USA as to Marvin McFoy. (Jackson, Randall) (Entered: 07/14/2008)
07/14/2008	<u>22</u>	Proposed Voir Dire Questions by USA as to Marvin McFoy. (Jackson, Randall) (Entered: 07/14/2008)

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